

## NOTICE TO PARTICIPANTS AND STAKEHOLDERS

October 14, 2016

**Re:** MSA Response to Stakeholder Comments on MSA Compliance Process

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On September 19, 2016 the MSA [invited](#) stakeholder comment on a revised MSA Compliance Process document. Comments received regarding this consultation were [published](#) on the MSA's website on October 12, 2016. MSA responses to the comments received are aggregated below based upon the section of the document to which they apply. An updated version of the Compliance Process will follow shortly.

### Section 1 – Interpretation

TransCanada commented regarding the revised definition of “Compliance Program” that compliance programs “generate corrective action” rather than “correct contraventions should they occur”.

*The interpretation for this term will be revised similarly.*

Capital Power commented regarding the revised definition of “Mitigation Plan” that a mitigation plan may apply to the contravention of an ISO Rule or to provisions in the legislation as well as reliability standards and recommended that the definition be broadened accordingly.

*Mitigation plans could be made to apply in a range of non-compliance situations. The MSA compliance process has established a meaningful role for mitigation plans in reliability standards enforcement given potential risks to reliability and the duration of time between scheduled compliance audits. The MSA does not believe a broader definition is necessary for the limited purposes of the Compliance Process.*

Capital Power commented that “Enforcement Action” is a term used several times in the Compliance Process document although a definition of the term does not appear in this section and would be helpful.

*Section 1 will be revised to include this term with the following interpretation: Enforcement Action means that in response to a matter of non-compliance with an ISO rule or reliability standard, the MSA may: issue a notice of specified penalty per AUCA s. 52; request a hearing or other proceeding before the AUC to seek an administrative penalty or other relief per AUCA s. 51, s. 63 and s. 64; or pursue resolution of an issue by way of negotiated settlement or consent order per AUCA s. 44 and s. 54.*

### **Section 3 – ISO Rules Enforcement**

Capital Power commented that changes proposed to this section removes the obligation to inform the market participant or registered entity of where the process stands during the assessment of a suspected contravention.

*Since the Compliance Process is an expedited enforcement process, the MSA has found this step to be unnecessary in most cases given typical file processing time and outcomes (forbearance or notice of specified penalty). With respect to matters identified by AESO compliance monitoring, participants are made aware by the action of referral when a matter has passed from the AESO to the MSA. The MSA believes such obligation is more relevant in the context of a matter that is found to be serious and where the MSA has invoked section 5 of the Compliance Process or if the MSA chooses to initiate a formal investigation.*

Altalink commented that a reference to the EUA appearing in this section as 21(1) should instead be 21.1.

*The noted reference will be revised accordingly.*

### **Section 4 – Reliability Standards Enforcement**

Epcor and TransCanada commented that the MSA should not remove the opportunity for registered entities to provide relevant information to the MSA regarding a suspected contravention on the basis that all such information should have been provided to the Compliance Monitor i.e. the AESO, at the time of and during the course of the compliance audit.

*Since the Reliability Standards compliance audit schedule is known to Registered Entities well in advance and the compliance audit itself provides multiple opportunities to submit supporting evidence of compliance, the MSA expects that all relevant information available should normally be made available to the AESO prior to referral. However, to reasonably accommodate unusual circumstances, this section will be revised such that the MSA will not as a matter of course, invite further submissions following referral; however, the MSA may accept further submissions at its discretion if extenuating circumstances can be demonstrated and the additional information can be provided in a timely manner.*

Altalink commented that a reference to AUC rule 027 appearing in this section as s.4(9) should instead be s.4.9 and further suggested that the weblink to the AESO Alberta Reliability Standards Compliance Monitoring Program be updated.

*The noted reference and weblink will be revised accordingly.*

### **Section 5 – Administrative Enforcement Process**

Capital Power commented with respect to this section that “it is unclear what steps and timelines may be involved in such a process”.

*Section 5 is an extended process contemplated for compliance matters where the MSA anticipates filing a request for a hearing or other proceeding before the AUC. The MSA believes it is reasonable that a participant is notified if and when the MSA decides to invoke this process and will revise section 5 accordingly. Given that timelines could vary depending on the nature of the matter, the MSA is unable to establish standard timelines. As set out in subsection 5.3, a participant will have a reasonable opportunity to review and provide feedback on the MSA's findings prior to the MSA filing a request for hearing.*

## **References**

Altalink commented that weblinks for Queen's Printer documents be updated.

*The noted weblinks will be reviewed and revised accordingly.*

## **Appendices**

Altalink commented that Appendix B and Appendix D should include an AUC email address to confirm delivery of payment in accordance with delivery of payment instructions.

*Since AUC contact persons are subject to change, no AUC email will be indicated in these Appendices however the actual notice of specified penalty received by a participant will contain such contact details.*